

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 10-cv-00571-ZLW-BNB

LARRY ALLEN THOMPSON,

Applicant,

v.

KEVIN MILYARD, Warden, Sterling Correctional Facility; and
JOHN SUTHERS, The Attorney General of the State of Colorado,

Respondents.

ORDER

This matter arises on the plaintiff's **Motion for Re-Consideration Regarding the Appointment of Conflict Free Counsel Pursuant to the Criminal Justice Act, 18 U.S.C. § 3006** [Doc. #21, filed 06/04/2010] (the "Motion"). The Motion is DENIED.

This is the applicant's third request for appointment of counsel [Docs. #9 and #14]. I previously advised the applicant [Doc. #10] that "[i]n most federal courts, it is the practice to appoint counsel in post-conviction proceedings only after a petition for post-conviction relief passes initial judicial evaluation and the court has determined that issues are presented calling for an evidentiary hearing." Johnson v. Avery, 393 U.S. 483, 487 (1969) (emphasis added). The court has not made a determination that an evidentiary hearing is necessary in this case.

IT IS ORDERED that the Motion is DENIED.

Dated August 23, 2010.

BY THE COURT:

s/ Boyd N. Boland

United States Magistrate Judge